

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

LAWRENCE EDWARD THOMPSON,	§	
(A/K/A MUSTAFA AL-AMIN	§	
FEDAYEEN-FARD)	§	
Plaintiff,	§	
	§	
v.	§	CIVIL ACTION NO. H-13-3212
	§	
ADRIAN GARCIA, et al.,	§	
	§	
Defendants.	§	

OPINION ON DISMISSAL

Plaintiff Lawrence Edward Thompson (A/K/A Mustafa Al-Amin Fedayeen-Fard), an inmate confined at the Harris County jail, filed this civil rights suit under 42 U.S.C. § 1983. Plaintiff also filed a motion to proceed *in forma pauperis* under 28 U.S.C. § 1915. (Docket No. 2.) Plaintiff's Complaint (Docket No. 1) alleges that jail officials subjected Plaintiff to cruel and unusual punishment in violation of the Eighth Amendment by excessively air conditioning his cell, not allowing him to cover the ventilation duct, and not providing him with extra clothing when he complained of being too cold.

Under 28 U.S.C. § 1915(g), a prisoner cannot file a civil action *in forma pauperis* in federal court if, on three or more prior occasions, while incarcerated, he brought an action that was dismissed for being frivolous, malicious, or failing to state a claim upon which relief may be granted. The only exception to this

revocation of an inmate's privilege to proceed *in forma pauperis* is if he is in immediate danger of serious physical harm. Banos v. O'Guin, 144 F.3d 883, 884 (5th Cir. 1998).

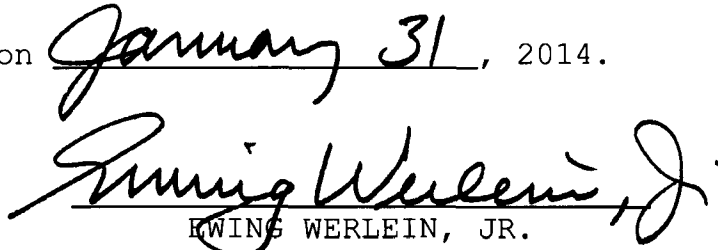
Plaintiff is clearly subject to the three-strikes bar under Section 1915(g) because his litigation history reveals that he has previously filed numerous cases in the federal courts that were dismissed as frivolous or failing to state a claim. See Fedayeen-Fard v. Turner, Cause No. 4:10-cv-861 (S.D. Tex., filed Mar. 15, 2010) (Memorandum on Dismissal (Docket No. 4), noting Plaintiff had filed at least thirty-four federal lawsuits and was barred by the Fifth Circuit from further filing without prior permission). Moreover, Plaintiff's present complaint does not allege facts showing that he is in immediate danger of serious physical harm. Although Plaintiff alleges that the temperature in his cell is uncomfortably cold at times and that he suffers from "osteoarthritis, chronic sinus problems, asthma and other illnesses," these allegations are insufficient to overcome the three-strikes bar.

Accordingly, it is ORDERED that this complaint is DISMISSED under 28 U.S.C. § 1915(g). Any pending motions are further DENIED.

The Clerk will provide a copy of this Order to Plaintiff and to the Clerk of the United States District Court for the Eastern

District of Texas, Tyler Division, 211 West Ferguson, Tyler, Texas,
75702, Attention: Betty Parker, Three-Strikes List Manager.

SIGNED at Houston, Texas, on January 31, 2014.


ERVING WERLEIN, JR.
UNITED STATES DISTRICT JUDGE